
By: **Delegates Marriott, Benson, Gladden, V. Jones, Kirk, Paige, Phillips,
and Rawlings**

Introduced and read first time: February 9, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Expansion of Jurisdiction**

3 FOR the purpose of expanding the exclusive jurisdiction of the juvenile court to
4 include proceedings involving certain children alleged to have committed certain
5 acts; repealing provisions of law authorizing a court exercising criminal
6 jurisdiction to transfer jurisdiction to a juvenile court under certain
7 circumstances; repealing provisions of law prohibiting a court exercising
8 criminal jurisdiction from transferring jurisdiction to a juvenile court under
9 certain circumstances; requiring a hearing to waive jurisdiction of the juvenile
10 court to be held within a certain time period; requiring a child be represented by
11 counsel at a certain hearing; requiring the court to grant certain continuances;
12 making certain conforming changes; providing for the applicability of this Act;
13 and generally relating to the jurisdiction of the juvenile court.

14 BY repealing

15 Article - Criminal Procedure
16 Section 4-202
17 Annotated Code of Maryland
18 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
19 2001)

20 BY repealing and reenacting, with amendments,

21 Article - Criminal Procedure
22 Section 10-215(a)(21) and 10-216(e)
23 Annotated Code of Maryland
24 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
25 2001)

26 BY repealing and reenacting, with amendments,

27 Article - Courts and Judicial Proceedings
28 Section 3-804 and 3-817
29 Annotated Code of Maryland

1 (1998 Replacement Volume and 2000 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Education

4 Section 7-303(a)

5 Annotated Code of Maryland

6 (1999 Replacement Volume and 2000 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Criminal Procedure**

10 [4-202.

11 (a) (1) In this section the following words have the meanings indicated.

12 (2) "Victim" has the meaning stated in § 11-104 of this article.

13 (3) "Victim's representative" has the meaning stated in § 11-104 of this
14 article.

15 (b) Except as provided in subsection (c) of this section, a court exercising
16 jurisdiction in a case involving a child may transfer the case to the juvenile court if:

17 (1) the accused child was at least 14 but not 18 years of age when the
18 alleged crime was committed;

19 (2) the alleged crime is excluded from the jurisdiction of the juvenile
20 court under § 3-804(e)(1), (4), or (5) of the Courts Article; and

21 (3) the court believes that a transfer of its jurisdiction is in the interest of
22 the child or society.

23 (c) The court may not transfer a case to the juvenile court under subsection (b)
24 of this section if:

25 (1) the child previously has been transferred to juvenile court and
26 adjudicated delinquent;

27 (2) the child was convicted in an unrelated case excluded from the
28 jurisdiction of the juvenile court under § 3-804(e)(1) or (4) of the Courts Article; or

29 (3) the alleged crime is murder in the first degree and the accused child
30 was 16 or 17 years of age when the alleged crime was committed.

31 (d) In determining whether to transfer jurisdiction under this section, the
32 court shall consider:

33 (1) the age of the child;

1 (2) the mental and physical condition of the child;

2 (3) the amenability of the child to treatment in an institution, facility, or
3 program available to delinquent children;

4 (4) the nature of the alleged crime; and

5 (5) the public safety.

6 (e) In making a determination under this section, the court may request that
7 a study be made concerning the child, the family of the child, the environment of the
8 child, and other matters concerning the disposition of the case.

9 (f) If the court transfers its jurisdiction under this section, the court may
10 order the child held for an adjudicatory hearing under the regular procedure of the
11 juvenile court.

12 (g) Pending a determination under this section to transfer its jurisdiction, the
13 court may order a child to be held in a juvenile facility.

14 (h) (1) A victim or victim's representative shall be given notice of the
15 transfer hearing as provided under § 11-104 of this article.

16 (2) (i) A victim or victim's representative may submit a victim impact
17 statement to the court as provided in § 11-402 of this article.

18 (ii) This paragraph does not preclude a victim or victim's
19 representative who has not filed a notification request form under § 11-104 of this
20 article from submitting a victim impact statement to the court.

21 (iii) The court may consider a victim impact statement in
22 determining whether to transfer jurisdiction under this section.]

23 10-215.

24 (a) The following events are reportable events under this subtitle that must be
25 reported to the Central Repository in accordance with § 10-214 of this subtitle:

26 (21) An adjudication of a child as delinquent:

27 (i) if the child is at least 14 years old, for an act [described in §
28 3-804(e)(1) of the Courts Article] WHICH, IF COMMITTED BY AN ADULT, WOULD BE A
29 CRIME PUNISHABLE BY DEATH OR LIFE IMPRISONMENT; [or]

30 (ii) if the child is at least 16 years old, for an act [described in §
31 3-804(e)(4) or (5) of the Courts Article;] WHICH, IF COMMITTED BY AN ADULT,
32 WOULD CONSTITUTE ANY OF THE FOLLOWING CRIMES:

33 1. ABDUCTION;

34 2. KIDNAPPING;

1 (i) [for an act described in § 3-804(e)(1) of the Courts Article] if
2 the child is at least 14 years old FOR AN ACT WHICH, IF COMMITTED BY AN ADULT,
3 WOULD BE A CRIME PUNISHABLE BY DEATH OR LIFE IMPRISONMENT; [or]

4 (ii) [for an act described in § 3-804(e)(4) or (5) of the Courts
5 Article] if the child is at least 16 years old FOR AN ACT WHICH, IF COMMITTED BY AN
6 ADULT, WOULD CONSTITUTE ANY OF THE FOLLOWING CRIMES:

- 7 1. ABDUCTION;
- 8 2. KIDNAPPING;
- 9 3. SECOND DEGREE MURDER;
- 10 4. MANSLAUGHTER, EXCEPT INVOLUNTARY
11 MANSLAUGHTER;
- 12 5. SECOND DEGREE RAPE;
- 13 6. ROBBERY WITH A DANGEROUS OR DEADLY WEAPON;
- 14 7. SECOND DEGREE SEXUAL OFFENSE IN VIOLATION OF
15 ARTICLE 27, § 464A(A)(1) OF THE CODE;
- 16 8. THIRD DEGREE SEXUAL OFFENSE IN VIOLATION OF
17 ARTICLE 27, § 464B(A)(1) OF THE CODE;
- 18 9. A CRIME IN VIOLATION OF ARTICLE 27, § 36B, § 373, § 374, §
19 445, § 446, OR § 481C OF THE CODE;
- 20 10. USING, WEARING, CARRYING, OR TRANSPORTING OF
21 FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME IN VIOLATION
22 OF ARTICLE 27, § 281A OF THE CODE;
- 23 11. USE OF A FIREARM IN VIOLATION OF ARTICLE 27, § 291A
24 OF THE CODE;
- 25 12. CARJACKING OR ARMED CARJACKING IN VIOLATION OF
26 ARTICLE 27, § 348A OF THE CODE;
- 27 13. ASSAULT IN THE FIRST DEGREE IN VIOLATION OF
28 ARTICLE 27, § 12A-1 OF THE CODE;
- 29 14. ATTEMPTED MURDER IN THE SECOND DEGREE IN
30 VIOLATION OF ARTICLE 27, § 411A OF THE CODE;
- 31 15. ATTEMPTED RAPE OR ATTEMPTED SEXUAL OFFENSE IN
32 THE SECOND DEGREE UNDER ARTICLE 27, § 464F OF THE CODE; OR
- 33 16. ATTEMPTED ROBBERY WITH A DANGEROUS OR DEADLY
34 WEAPON UNDER ARTICLE 27, § 488 OF THE CODE; OR

1 (III) WHO IS AT LEAST 16 YEARS OLD, FOR AN ACT THAT WOULD BE A
2 FELONY IF COMMITTED BY AN ADULT IF THE CHILD PREVIOUSLY HAS BEEN
3 CONVICTED AS AN ADULT OF A FELONY.

4 (2) If a child has not been previously fingerprinted as a result of arrest
5 for the delinquent act, the court that held the disposition hearing of the child
6 adjudicated delinquent shall order the child to be fingerprinted by the appropriate
7 and available law enforcement unit.

8 (3) If the child cannot be fingerprinted at the time of the disposition
9 hearing held under paragraph (2) of this subsection, the court shall order the child to
10 report to a designated law enforcement unit to be fingerprinted within 3 days after
11 making a disposition on an adjudication of delinquency.

12 Article - Courts and Judicial Proceedings

13 3-804.

14 (a) The court has exclusive original jurisdiction over:

15 (1) A child alleged to be delinquent, in need of supervision, in need of
16 assistance or who has received a citation for a violation;

17 (2) With respect to any child who is under the jurisdiction of the juvenile
18 court and previously has been adjudicated a child in need of assistance, all
19 termination of parental rights proceedings and related adoption proceedings; and

20 (3) Except as provided in subsection (e)(6) of this section, a peace order
21 proceeding in which the respondent is a child.

22 (b) The court has exclusive original jurisdiction over proceedings arising
23 under the Interstate Compact on Juveniles.

24 (c) The court has concurrent jurisdiction over proceedings against an adult for
25 the violation of § 3-831 of this subtitle. However, the court may waive its jurisdiction
26 under this subsection upon its own motion or upon the motion of any party to the
27 proceeding, if charges against the adult arising from the same incident are pending in
28 the criminal court. Upon motion by either the State's Attorney or the adult charged
29 under § 3-831, the court shall waive its jurisdiction, and the adult shall be tried in the
30 criminal court according to the usual criminal procedure.

31 (d) The jurisdiction of the court is concurrent with that of the District Court in
32 any criminal case arising under the compulsory public school attendance laws of this
33 State.

34 (e) The court does not have jurisdiction over:

35 [(1) A child at least 14 years old alleged to have done an act which, if
36 committed by an adult, would be a crime punishable by death or life imprisonment, as
37 well as all other charges against the child arising out of the same incident, unless an

1 order removing the proceeding to the court has been filed under Article 27, § 594A of
2 the Code;

3 (2)] (1) A child at least 16 years old alleged to have done an act in
4 violation of any provision of the Transportation Article or other traffic law or
5 ordinance, except an act that prescribes a penalty of incarceration;

6 [(3)] (2) A child at least 16 years old alleged to have done an act in
7 violation of any provision of law, rule, or regulation governing the use or operation of
8 a boat, except an act that prescribes a penalty of incarceration; OR

9 [(4) A child at least 16 years old alleged to have committed any of the
10 following crimes, as well as all other charges against the child arising out of the same
11 incident, unless an order removing the proceeding to the court has been filed under
12 Article 27, § 594A of the Code:

13 (i) Abduction;

14 (ii) Kidnapping;

15 (iii) Second degree murder;

16 (iv) Manslaughter, except involuntary manslaughter;

17 (v) Second degree rape;

18 (vi) Robbery under Article 27, § 487 of the Code;

19 (vii) Second degree sexual offense in violation of Article 27, §
20 464A(a)(1) of the Code;

21 (viii) Third degree sexual offense in violation of Article 27, §
22 464B(a)(1) of the Code;

23 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
24 446, or § 481C of the Code;

25 (x) Using, wearing, carrying, or transporting of firearm during and
26 in relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;

27 (xi) Use of a firearm in violation of Article 27, § 291A of the Code;

28 (xii) Carjacking or armed carjacking in violation of Article 27, § 348A
29 of the Code;

30 (xiii) Assault in the first degree in violation of Article 27, § 12A-1 of
31 the Code;

32 (xiv) Attempted murder in the second degree in violation of Article
33 27, § 411A of the Code;

1 (xv) Attempted rape or attempted sexual offense in the second
2 degree under Article 27, § 464F of the Code; or

3 (xvi) Attempted robbery under Article 27, § 487 of the Code;

4 (5) A child who previously has been convicted as an adult of a felony and
5 is subsequently alleged to have committed an act that would be a felony if committed
6 by an adult, unless an order removing the proceeding to the court has been filed
7 under Article 27, § 594A of the Code; or]

8 [(6)] (3) A peace order proceeding in which the victim, as defined in §
9 3-801(x)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of
10 the Family Law Article.

11 (f) If the child is charged with two or more violations of the Maryland Vehicle
12 Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of
13 the same incident and which would result in the child being brought before both the
14 court and a court exercising criminal jurisdiction, the court has exclusive jurisdiction
15 over all of the charges.

16 3-817.

17 (a) The court may waive the exclusive jurisdiction conferred by § 3-804 of this
18 subtitle with respect to a petition alleging delinquency by:

19 (1) A child who is 15 years old or older; or

20 (2) A child who has not reached his 15th birthday, but who is charged
21 with committing an act which if committed by an adult, would be punishable by death
22 or life imprisonment.

23 (b) (1) The court may not waive its jurisdiction until after it has conducted a
24 waiver hearing, held prior to an adjudicatory hearing and after notice has been given
25 to all parties as prescribed by the Maryland Rules. The waiver hearing is solely to
26 determine whether the court should waive its jurisdiction.

27 (2) A WAIVER HEARING SHALL BE HELD WITHIN 14 DAYS AFTER THE
28 FILING OF A PETITION ALLEGING DELINQUENCY.

29 (3) A CHILD SHALL BE REPRESENTED BY COUNSEL AT A WAIVER
30 HEARING.

31 (4) IN SCHEDULING A WAIVER HEARING UNDER THIS SECTION, THE
32 COURT SHALL GRANT ALL REASONABLE REQUESTS FOR CONTINUANCE OF THE
33 HEARING.

34 (c) (1) Notice of the waiver hearing shall be given to a victim as provided
35 under Article 27, § 770 of the Code.

1 (2) "Law enforcement agency" means the law enforcement agencies
2 listed in Article 27, § 727(b) of the Code.

3 (3) "Local school system" means the schools and school programs under
4 the supervision of the local superintendent.

5 (4) "Local superintendent" means the county superintendent, for the
6 county in which a child is enrolled, or a designee of the superintendent, who is an
7 administrator.

8 (5) "Reportable offense" means:

9 (i) A crime of violence, as defined in Article 27, § 643B of the Code;

10 (ii) Any of the FOLLOWING offenses [enumerated in § 3-804(e)(4) of
11 the Courts Article;]:

12 1. ABDUCTION;

13 2. KIDNAPPING;

14 3. SECOND DEGREE MURDER;

15 4. MANSLAUGHTER, EXCEPT INVOLUNTARY
16 MANSLAUGHTER;

17 5. SECOND DEGREE RAPE;

18 6. ROBBERY WITH A DANGEROUS OR DEADLY WEAPON;

19 7. SECOND DEGREE SEXUAL OFFENSE IN VIOLATION OF
20 ARTICLE 27, § 464A(A)(1) OF THE CODE;

21 8. THIRD DEGREE SEXUAL OFFENSE IN VIOLATION OF
22 ARTICLE 27, § 464B(A)(1) OF THE CODE;

23 9. A CRIME IN VIOLATION OF ARTICLE 27, § 36B, § 373, § 374, §
24 445, § 446, OR § 481C OF THE CODE;

25 10. USING, WEARING, CARRYING, OR TRANSPORTING OF
26 FIREARM DURING AND IN RELATION TO A DRUG TRAFFICKING CRIME IN VIOLATION
27 OF ARTICLE 27, § 281A OF THE CODE;

28 11. USE OF A FIREARM IN VIOLATION OF ARTICLE 27, § 291A
29 OF THE CODE;

30 12. CARJACKING OR ARMED CARJACKING IN VIOLATION OF
31 ARTICLE 27, § 348A OF THE CODE;

32 13. ASSAULT IN THE FIRST DEGREE IN VIOLATION OF
33 ARTICLE 27, § 12A-1 OF THE CODE;

